

Frequently Asked Questions In-Use Off-Road Diesel Vehicle Regulation

Rental/Leased Vehicles FAQ Revised May 2011

Q – I plan on renting or leasing some off-road diesel vehicles this summer from a local rental company. For future rentals or leases, will compliance with the In-Use Off-Road Diesel Vehicle Regulation's (off-road regulation) reporting, labeling, and emission control requirements be my responsibility or the responsibility of the rental company?

A – Except in very specific instances described below, compliance will be the responsibility of the rental company (i.e., the lessor). The rental company must report and label the vehicles and ensure they have the proper emissions controls.

The only situation where compliance will be the responsibility of the renter (or lessee) for future rentals or leases is if the lease is for a year or longer **and** it is written into the lease agreement that compliance is the responsibility of the lessee. Per title 13, section 2449(c)(23), "Vehicles that are owned by a rental or leasing company and that are leased by the same lessee for a period of one year or more may be excluded from the rental company fleet and included in the fleet of the lessee only if such arrangement is delineated in the written lease agreement."

Q – What about leases or rentals already in place? Then, who is responsible for compliance with the regulation's reporting, labeling, and emission control requirements?

A – Vehicles that were leased for the duration of one year or more are considered part of the lessee's fleet instead of the rental company's fleet if the lease was signed before June 15, 2008. Therefore, if you are leasing a vehicle, and your lease is for one year or more and it was signed before June 15, 2008, the vehicle needs to be reported and included in your fleet and you are responsible for compliance with the regulation's reporting, labeling, and emission control requirements. Per title 13, section 2449(c)(23), "Off-road vehicles and engines subject to this regulation that are owned by a lessor and leased to a lessee under a "lease" as defined in California Uniform Commercial Code, section 10103(a)(10), for a duration of at least one year, dated prior to the effective date of these regulations, are considered part of the fleet of the lessee rather than the lessor."

While this document is intended to assist fleets with their compliance efforts, it is the sole responsibility of fleets to ensure compliance with the In-Use Off-Road Diesel Vehicle Regulation.

If, on the other hand, the lease or rental duration is less than one year with the responsibility for compliance not explicitly assigned to the lessee or the lease was signed on or after June 15, 2008, compliance will be the responsibility of the rental company (i.e., the lessor).

Q – Will compliance with the off-road regulation's idling restrictions be my responsibility or the responsibility of the rental company?

Compliance with idling limitations (i.e., the five-minute limit on unnecessary idling) is the responsibility of the operator of the vehicle (i.e., the lessee) and should so be stated in the rental agreement. For more information about idling limitations, please see our enforcement advisory at: www.arb.ca.gov/enf/advs/advs377.pdf. For suggested language to include in the rental or lease agreement, see below.

Q – As a rental or leasing company, is there any additional language I should include in the rental agreement in order to comply with this regulation?

A – If your company leases out a vehicle for a period of one year or more, you may choose to have that vehicle included with the lessee's fleet instead of with your fleet. To place responsibility on the lessee for reporting a vehicle and complying with the emissions requirements of the off-road diesel vehicle regulation, the rental/lease contract must disclose information and specifically assign that responsibility.

The rental/lease agreement should also include information about the 5 minute idling limit. Some suggested language regarding idling for the rental agreement is:

"Compliance with California Air Resources Board (CARB) Idling Regulation (Title 13, California Code of Regulations: §2449(d)(2)):

Any in-use off-road diesel vehicle may not idle for more than 5 consecutive minutes. Lessee is responsible for compliance with CARB off-road diesel engine idling limits and is responsible for any penalties or fines incurred for non-compliance."

Q – I own a rental company and we currently have Tier 0 vehicles leased or rented to customers with long term leases (more than 1 year). Will I be able to add these Tier 0 vehicles back to my fleet after the lease is up?

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A – Yes, although Tier 0 vehicles may not be added to fleets in the future, leased vehicles returning to the lessor's fleet do not have to meet the adding vehicles requirements in section 2449(d)(6) of the regulation. The vehicle, however, must be included in the lessor's fleet for the following year's fleet averages and targets.

Q – Will I earn BACT turnover credit for returning long-term leased vehicles? Alternatively, will rental companies earn credit for leasing vehicles?

A – No, as specified in 2449(c)(55), neither the lessor nor the lessee will earn turnover credit for the lease or return of rental vehicles. Returning a Tier 0 vehicle, for example, may improve the lessee's fleet averages, but the lessee will not receive additional BACT credit. For more information about BACT credit, please see section 2449.1(b) of the regulation.

Q – Because I am renting a vehicle, does that mean ARB considers it under my "control" and I have to include it when determining my fleet size?

A – No, because you are just renting the vehicle, you do not need to include it for fleet size purposes, unless responsibility for compliance with the off-road regulation has been assigned to you. For example, Fleet A has a total of 2,000 horsepower in backhoes and rents two 300 horsepower excavators. Although Fleet A uses vehicles with a total 2,600 horsepower, only 2,000 horsepower (i.e., the vehicles Fleet A owns) will be counted towards their fleet total, leaving them as a small fleet.

The rented vehicle will only need to be included with your fleet if it is a long-term lease (1 year or more) in place before June 15, 2008 or where compliance responsibility for the vehicle is assigned to you, the lessee, in the rental/lease agreement.

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